

**EXHIBIT P**  
(to Plaintiff's Motion for Partial Summary Judgment)

Plaintiff's Deposition Exhibit 9

**From:** Lawrence Kerr  
**To:** Dekoning, Bernard  
**Cc:** Nichols, Tamara  
**Subject:** [EXTERNAL] Dr. Richard Kennedy correspondence re: Market Pay  
**Date:** Monday, February 09, 2015 8:32:55 PM  
**Attachments:** E-mail to Edith Lewis (2).docx  
COMPARISON OF TOTAL SALARIES AS OF 2.docx  
DAMAGES.docx  
MARKET PAY.docx  
BASE PAY TOTAL PAY.docx  
EXPERIENCE COMPARED TO KENNEDY.docx  
YEARS OF EXPERIENCE.docx  
TOTAL PAY.docx  
COMPARISON OF AGE AND MARKET PAY.docx  
2006.docx  
2008.docx  
2010.docx  
2012.docx  
2014.docx

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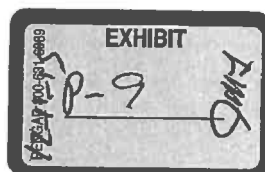
Dear Dr. Dekoning,

As per Dr. Kennedy's request, please find attached a copy of the letter and attachments sent to Dorn VA counsel, Ms. Lewis. I believe this letter and the accompanying attachments elucidate Dr. Kennedy's concerns in this matter and provide what we believe is strong support for his position.

Upon Dr. Kennedy's consent, if I can assist you in evaluating and resolving this matter please do not hesitate to contact me. By copy of this email, I am sending same to Ms. Tamara Nichols.

Thank you for your review of this perplexing issue.

Very truly yours,  
Lawrence S. Kerr, M.D., J.D.



Kennedy\_VA\_1308

**Nichols, Tamara**

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**From:** Lewis, Edith  
**Sent:** Monday, February 09, 2015 7:55 AM  
**To:** Nichols, Tamara  
**Subject:** FW: [EXTERNAL] Dr. Richard Kennedy's claim relating to "market pay"  
**Attachments:** E mail to Edith Lewis (2).docx; EEO official complaint.docx; COMPARISON OF TOTAL SALARIES AS OF 2.docx; DAMAGES.docx; MARKET PAY.docx; BASE PAY TOTAL PAY.docx; EXPERIENCE COMPARED TO KENNEDY.docx; YEARS OF EXPERIENCE.docx; TOTAL PAY.docx; COMPARISON OF AGE AND MARKET PAY.docx; 2006.docx; 2008.docx; 2010.docx; 2012.docx; 2014.docx

**Follow Up Flag:** Follow up  
**Due By:** Tuesday, February 17, 2015 4:00 PM  
**Flag Status:** Flagged

Fyi-also see damages attachment for monetary amount demanded via approximately 125k through 2014.

Edith W. Lewis  
Attorney  
Department of Veterans Affairs  
Office of Regional Counsel  
803-647-5793 (direct line)  
803-647-5839 (main line)  
803-647-2891 (facsimile)

**From:** Lawrence Kerr [<mailto:kerr911@gmail.com>]  
**Sent:** Sunday, December 28, 2014 10:35 PM  
**To:** Lewis, Edith  
**Subject:** [EXTERNAL] Dr. Richard Kennedy's claim relating to "market pay"

Dear Edith,

Thank you for discussing this matter recently with me by telephone. As I indicated at that time, I am sending you a thorough discussion of Dr. Kennedy's position similar to what was presented at mediation. Also at Dr. Kennedy's request, I am sending supplemental documentation prepared by Dr. Kennedy in support of his claim. Some of these documents were presented at mediation. I realize that you requested a shorter version of things but Dr. Kennedy felt it would be of greater assistance to those persons reviewing this matter to have all the facts as we see them and for the reviewers to have a full exposition of Dr. Kennedy's position.

As we discussed, you may present this information to the pertinent persons as you see fit. I hope that upon further review, these troubling issues can be resolved fairly and expeditiously.

Again, thank you for your consideration in this matter. Please contact me with any questions or concerns. As a personal aside, I hope all goes well with your upcoming surgery.

Very truly yours,  
Larry Kerr

COMPRARISON OF TOTAL SALARIES AS OF 2/28/14

Kennedy compared to Pryor

Kennedy salary \$724 more than Pryor's

Yet, Kennedy has slightly more years of anesthesia experience and 7 more years of VA experience. The extra 7 years of VA experience is deemed to be worth a whopping \$724. But, then Dr. Kennedy is 3 years older than Dr. Pryor.

Kennedy compared to Pender

Kennedy salary \$286 more than Pender's

Yet, Kennedy has 2 more years of anesthesia experience and 13 more years of VA experience. So, this total of 15 more years of experience under the market pay statute is deemed by the DornVA to be worth a whopping \$286. But, then Dr. Kennedy is 7 years older than Dr. Pender.

**Kennedy\_VA\_1373**

## MARKET PAY

Kennedy	02/28/14	167,738	(Biennial review)
	03/01/12	167,738	(Biennial review)
	01/11/10	167,738	(Biennial review)
	12/14/07	156,000	(Biennial review)
	03/08/06	156,000	(Initial determination)
Miller	02/24/14	204,837	(Increased from 197,411)
	05/05/13	197,411	(Change in assignment)*
	03/01/12	187,411	(Biennial review)*
	01/17/10	187,411	(Biennial review)*
	02/17/08	175,055	(Change in assignment)*
	12/13/08	175,055	(Special panel, re becoming Chief)
	01/06/08	150,000	(Biennial review)*
	03/08/06	150,000	(Initial determination)
Pryor	02/28/14	176,911	(Biennial review)
	03/01/12	176,911	(Biennial review)
	01/11/10	176,911	(Biennial review)
	12/14/07	165,055	(Biennial review)
	03/08/06	150,000	(Initial determination)
Pender	11/26/13	187,246	(Biennial review)
	09/02/11	181,246	(Initial determination)
Nguyen	11/07/13	190,513	(Initial determination)
Alghothani	05/28/14	189,533	(Initial determination)
Carter	08/05/11	187,013	(Initial determination)
Leder	03/01/12	179,970	(Biennial review)
	01/11/10	179,970	(Biennial review)
	10/08/08	168,182	(Initial determination)

\*No FOIA documents produced re compensation panel

**Kennedy\_VA\_1375**

BASE PAY			TOTAL PAY
Kennedy	02/28/14	122,060	289,798
	03/01/12	117,589	285,327
	01/11/10	114,322	282,060
	12/14/07	106,326	262,326
	03/08/06	99,000	255,000
Miller	02/24/14	112,163	317,000
	05/05/13	111,055	308,466
	03/01/12	107,788	295,411
	01/17/10	104,521	291,932
	02/17/08	96,945	272,000
	12/13/08	96,945	272,000
	01/06/08	96,945	246,945
	03/08/06	90,000	240,000
Pryor	02/28/14	112,163	289,074
	03/01/12	107,788	284,699
	01/11/10	104,521	281,432
	12/14/07	96,945	262,000
	03/08/06	90,000	240,000
Pender	11/26/13	102,266	289,512
	09/02/11	97,987	279,000
Nguyen	11/07/13	97,987	288,500
Althothani	05/28/14	98,967	288,500
Carter	08/05/11	97,987	285,000
Leder	03/01/12	117,589*	281,224
	01/11/10	97,987	277,957
	10/08/08	93,818	262,000

Kennedy\_VA\_1371

EXPERIENCE COMPARED TO KENNEDY

Anesthesia Experience

Pryor	-6 months less
Pender	-2 years less
Nguyen	-3 years more
Alghothani	-6 years less
Carter	-6 years more
Leder	-7 years more

VA Experience

7 years less
13 years less
15 years less
16 years less
13 years less
10 years less

**Kennedy\_VA\_1374**

YEARS OF EXPERIENCE (ANESTHESIA PLUS VA EXPERIENCE)

63	KENNEDY	35 years
60	PRYOR	28 years
57	PENDER	20 years
56	LEDER	34 years
55	CARTER	28 years
52	NGUYEN	23 years
49	ALGHOTHANI	13 years

**Kennedy\_VA\_1377**



## TOTAL PAY

2014

Employee	Market Pay	Base Pay	Total
Kennedy	167,738	122,060	289,798
Pryor	176,911	112,163	289,074
Pender	187,246	102,266	289,512
Nguyen	190,513	97, 987	288,500
Alghothani	189,533	98,967	288,500

2010-11

Employee	Market Pay	Base Pay	Total
Kennedy (1/2010)	167,738	114,322	282,060
Pryor (1/2010)	176,911	104,521	281,432
Leder (1/2010)	179,970	97,987	277,957
Carter (8/2011)	187,013	97,987	285,000

Kennedy\_VA\_1376

## COMPARISON OF AGE AND MARKET PAY

<u>Age as of 12/10/14</u>	<u>Employee</u>	<u>2014</u>	<u>2012</u>	<u>2010</u>
63	Kennedy	167,738	167,738	167,738
60	Pryor	176,911	176,911	176,911
57	Pender	187,246	181,246	
56	Leder		179,970	179,970
55	Carter	187,013	187,013	
52	Nguyen	190,513		
49	Alghothani	189,533		

Kennedy\_VA\_1372

2006

Kennedy, Miller and Pryor at Dorn VA

Initial Market pay determination under the new law:

3/08/06 Panel for all 3 physicians

James Farrell .  
Stephen Hawes  
J. Jeffrey Brown  
Rodney Reid

Kennedy	156,000
Miller	150,000
Pryor	150,000

**Kennedy\_VA\_1367**

2008

Kennedy and Pryor (no information provided for Miller)

2 year review

12/14/07 Panel to determine market pay for 2008 and 2009

James Farrell  
Stephen Hawes  
J. Jeffrey Brown

Kennedy	156,000 (no change)
Pryor	165,055 (increased from 150,000)

**Kennedy\_VA\_1368**

2010

Kennedy, Pryor, Leder

2 year review

01/11/10 Panel to determine market pay for 2010 and 2011

Stephen Hawes, Jr.

Ziad A. Al-Asaad

James J. Farrell

Kennedy	167,738
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Pryor	176,911
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Leder	179,970
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**Kennedy\_VA\_1369**

2012

Kennedy, Pryor, Leder, Pender, Carter

2 year review for Kennedy, Pryor and Leder  
Initial determination for Pender and Carter

03/1/12 Panel for Kennedy, Pryor and Leder (All management)

Alfred B. Boykin, Jr.  
J. Jeffrey Brown  
Stephen Hawes

Kennedy	167,738
Pryor	176,911
Leder	179,224

09/2/11 Panel for Pender (Initial determination)(All management)

Alfred B. Boykin, Jr.  
J. Jeffrey Brown  
Augustine Agocha

Pender	181,246
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08/05/11 Panel for Carter (Initial determination)(All management)

Alfred B. Boykin, Jr.  
J. Jeffrey Brown  
Iva T. Chapple

Carter	187,013
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**Kennedy\_VA\_1370**